

## LINCOLN CITY/LANCASTER COUNTY PLANNING STAFF REPORT

for May 26, 2004 PLANNING COMMISSION MEETING

**P.A.S.:** Special Permit #04022

**PROPOSAL:** To allow the sale of alcoholic beverages for consumption on the premises at the Four Suns Restaurant.

**CONCLUSION:** This request complies with the applicable criteria for a special permit for the sale of alcohol for consumption on the premises including being located in excess of 100' away from a residential district, day care facility, park, church, or state mental institution.

<b><u>RECOMMENDATION:</u></b>	Conditional Approval
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### **GENERAL INFORMATION:**

**LEGAL DESCRIPTION:** See attached ownership certificate.

**LOCATION:** 3239 South 13<sup>th</sup> Street

**EXISTING ZONING:** B-1 Local Business

**EXISTING LAND USE:** Commercial

### **SURROUNDING LAND USE AND ZONING:**

North:	Commercial	B-1
South:	Commercial	B-1
East:	Commercial	B-1
West:	Commercial	B-1

**COMPREHENSIVE PLAN SPECIFICATIONS:** The Comprehensive Plan designates commercial land uses in this area.

**HISTORY:** **CZ#04003** - A text amendment approved March 15, 2004, amending the special permits for on and off-sale alcohol.

## **BACKGROUND:**

This request is to allow on-sale alcohol at the Four Suns Restaurant located in Indian Village Shopping Center at South 13<sup>th</sup> and Arapahoe Streets. The premises occupies a bay at the southeast corner of the shopping center, which is located within a larger B-1 zoned area.

## **ANALYSIS:**

### **1. SPECIAL PERMIT REQUIREMENTS PER LINCOLN MUNICIPAL CODE (LMC)**

**27.63.680:** Alcoholic beverages may be sold for consumption on the premises in the B-1, B-3, H-1, H-2, H-3, H-4, I-1, I-2 and I-3 zoning districts upon the approval of a special permit. Alcoholic beverages may also be sold for consumption on the premises as an accessory use to a golf course or country club as part of a separate special permit under Section 27.63.130 approving the golf course or country club in any district where recreational facilities are allowed as a permitted use, permitted conditional use, or permitted special use. A special permit for such use may be granted subject to the requirements of the respective districts, all applicable ordinances, and the following conditions:

**(a) Parking shall be provided on-site at the ratio of one space per 100 square feet of gross floor area.**

On-site parking in accordance with LMC 27.67.020 at a ratio of one space per 100 square feet of gross floor area is provided within the shopping center.

**(b) The sale of alcoholic beverages for consumption off the premises shall not be permitted without issuance of a permit under LMC Section 27.63.685 of this code.**

This application is for a special permit to allow the sale of alcohol for consumption on the premises. The sale of alcoholic beverages off the premises is not a part of this proposal and is not being requested.

**(c) The designated area specified in a license issued under the Nebraska Liquor Control Act of any building approved for such activity must be located no closer than 100 feet from a day care facility, park, church, state mental health institution, or a residential district (except where such use is accessory to a golf course or country club).**

The licensed premises is more than 100' away from day care facility, park, church, state mental health institution, or a residential district. The nearest residential district is a tract zoned R-5 located southeast of the premises approximately 160' away.

**(d) Any lighting on the property shall be designed and erected in accordance with all applicable lighting regulations and requirements.**

This is an existing use, and no new development is proposed with this application.

**(e) Vehicle stacking for a drive-through window used as any part of the permitted business operation shall not be located in any required building setback from a residential district.**

A drive-through window is not shown as part of this application.

**(f) The use shall not have any amplified outside sound or noise source, including bells, buzzers, pagers, microphones, or speakers within 150 feet of any residential district. This shall not apply to sound sources audible only to the individual to whom they are directed, such as personal pagers, beepers, or telephones.**

No such devices are shown as part of this application.

**(g) No access door to the business, including loading or unloading doors, shall face any residential district if such doors are within 150 feet of the residential district. This shall not apply to emergency exit doors required by building or safety codes. No door facing a residential district shall be kept open during the operation of the establishment.**

The access door opens onto the parking lot of the shopping center and does not face a residential district.

**(h) Vehicular ingress and egress to and from the property shall be designed to avoid, to the fullest extent possible as determined by the City Council, disruption of any residential district. Particular attention shall be given to avoiding designs that encourage use of residential streets for access to the site instead of major streets.**

Access to the site is provided by driveways to South 13<sup>th</sup> Street, High Street, and Arapahoe Streets, none of which are considered residential streets at this location.

**(i) All other regulatory requirements for liquor sales shall apply, including licensing by the state.**

**(j) The City Council may consider any of the following as cause to revoke the special permit approved under these regulations:**

- (1) Revocation or cancellation of the liquor license for the specially permitted premises; or**
- (2) Repeated violations related to the operation of the permittee's business.**
- (3) Repeated or continuing failure to take reasonable steps to prevent unreasonable disturbances and anti-social behavior on the premises related to the operation of the permittee's business including, but not limited to, violence on site, drunkenness, vandalism, solicitation, or litter.**

**Planning Commission approval is required for this use.**

## **2. DEPARTMENT RESPONSES:**

**POLICE:** The Police Department does not object to this request.

**PUBLIC WORKS:** Public Works and Utilities does not object to this request.

### **CONDITIONS:**

Site Specific:

1. This approval permits the sale of alcohol for consumption on the premises at 3239 South 13<sup>th</sup> Street as shown on the attached site plan.

Standard:

2. The following conditions are applicable to all requests:
  - 2.1 Before the sale of alcohol for consumption on the premises, all development and construction is to comply with the approved plans.
  - 2.2 The site plan accompanying this permit shall be the basis for all interpretations of setbacks, yards, locations of buildings, location of parking and circulation elements, and similar matters.
  - 2.3 This resolution's terms, conditions, and requirements bind and obligate the permittee, its successors and assigns.
  - 2.4 The applicant shall sign and return the letter of acceptance to the City Clerk within 30 days following the approval of the special permit, provided, however, said 30-day period may be extended up to six months by administrative amendment. The clerk shall file a copy of the resolution approving the special

permit and the letter of acceptance with the Register of Deeds, filling fees therefor to be paid in advance by the applicant.

Prepared by:

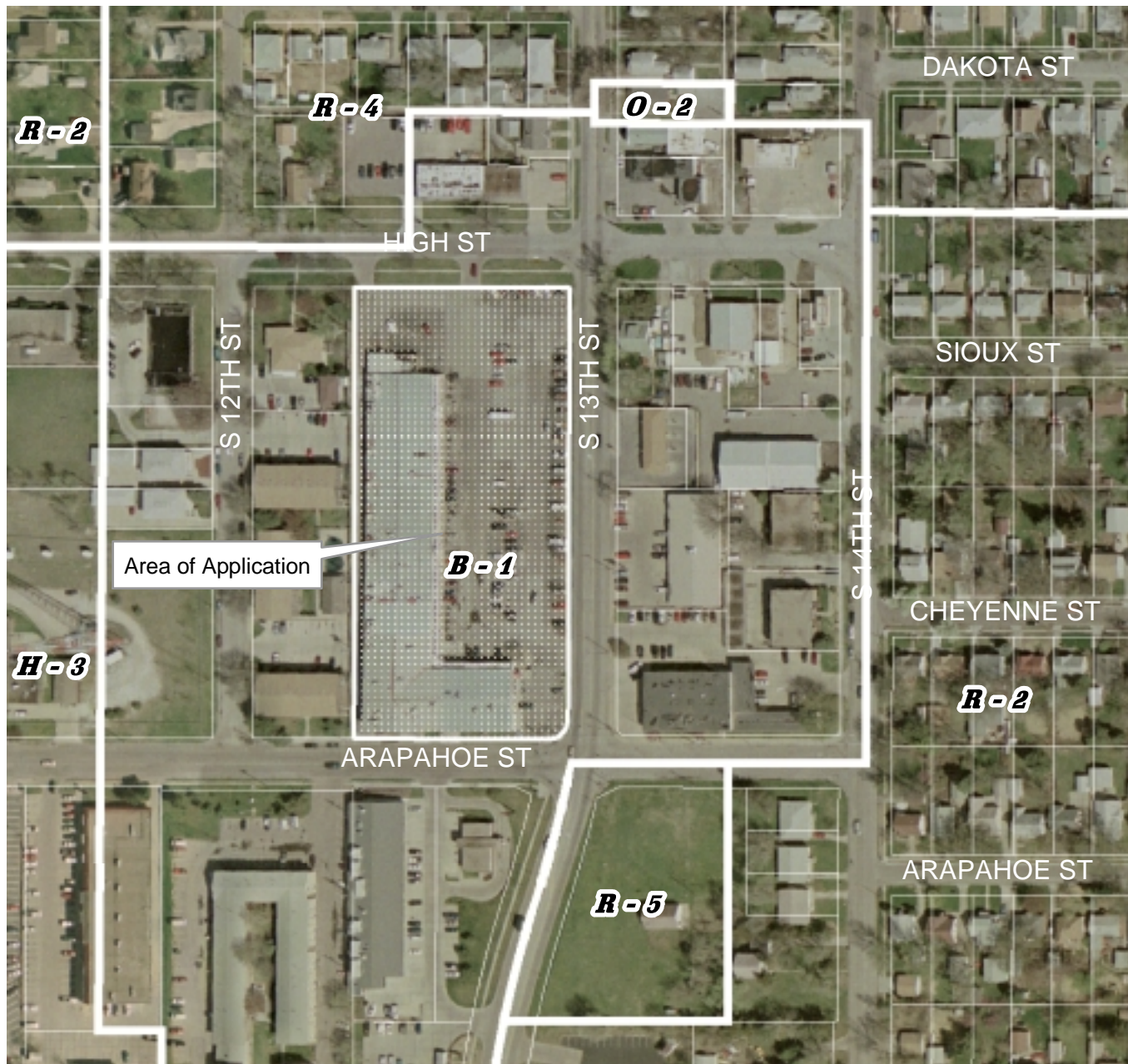
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Brian Will, 441-6362, [bwill@ci.lincoln.ne.us](mailto:bwill@ci.lincoln.ne.us)  
Planner  
May 12, 2004

**CONTACT:** Christopher Heinrich  
PO Box 82028  
Lincoln, NE 68501-2028  
(402) 434-3000

**APPLICANT** Four Suns Restaurant  
3239 South 13<sup>th</sup> Street  
Lincoln, NE 68502  
(402) 420-6560

**OWNER:** Jeffrey Fredrick  
PO Box 80612  
Lincoln, NE 68501  
(402) 580-5555



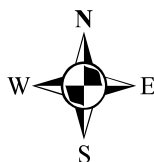
2002 aerial

## Special Permit #04022 3239 S. 13th St.

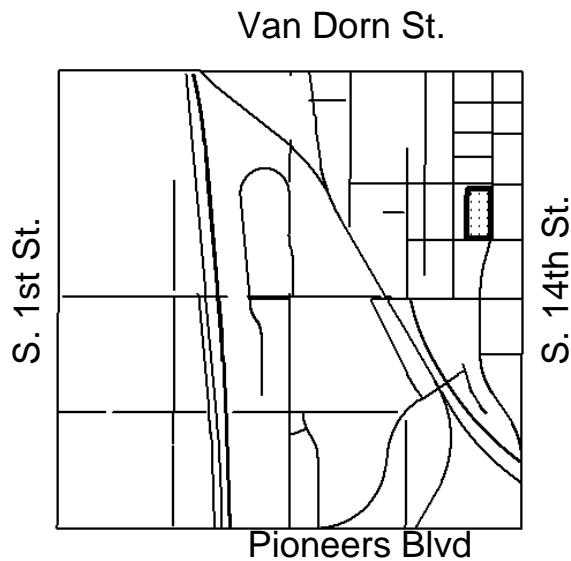
### Zoning:

R-1 to R-8	Residential District
AG	Agricultural District
AGR	Agricultural Residential District
R-C	Residential Conservation District
O-1	Office District
O-2	Suburban Office District
O-3	Office Park District
R-T	Residential Transition District
B-1	Local Business District
B-2	Planned Neighborhood Business District
B-3	Commercial District
B-4	Lincoln Center Business District
B-5	Planned Regional Business District
H-1	Interstate Commercial District
H-2	Highway Business District
H-3	Highway Commercial District
H-4	General Commercial District
I-1	Industrial District
I-2	Industrial Park District
I-3	Employment Center District
P	Public Use District

One Square Mile  
Sec. 2 T9N R6E



Zoning Jurisdiction Lines  
City Limit Jurisdiction





INDIAN VILLAGE SHOPPING CENTER

MAY 13 2004

NORTH

- INDIAN VILLAGE SHOPPING CENTER

## PARKING

FOUR SUNS RESTAURANT

PLOT PLAN

205

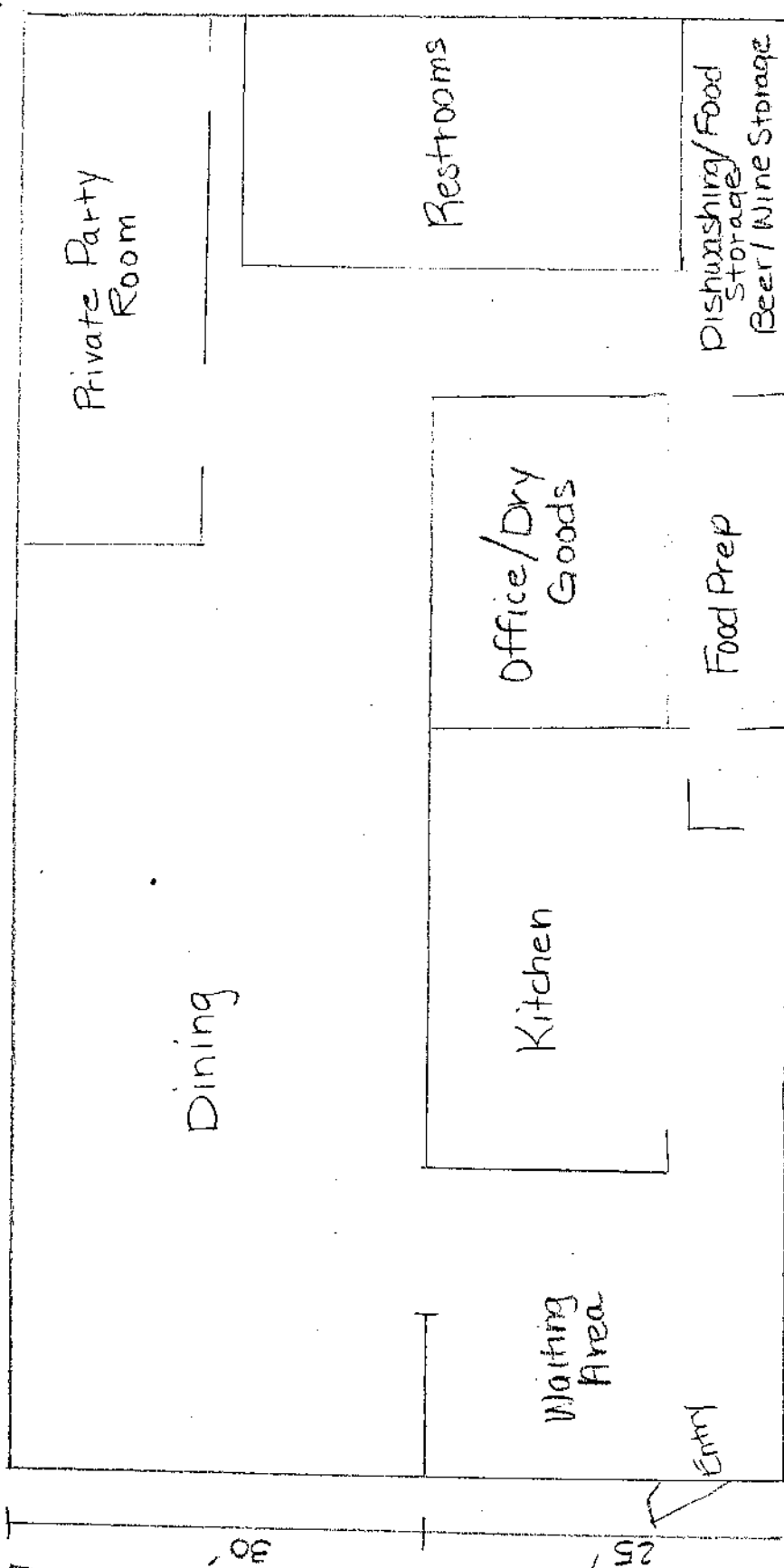
Wm. K. Howard, Mayor & Council

15

72'

45'6"

26'6"



← N

APR 23 2004



## **STATEMENT OF PURPOSE FOR APPLICATION**

### **FOUR SUNS RESTAURANT**

Four Suns Restaurant, Inc. d/b/a Four Suns Restaurant ("Four Suns") has operated an authentic Thai Cuisine restaurant at the Indian Village Shopping Center since 1994. In response to customer demand, Four Suns seeks to offer beer, wine and liquor beverages as part of its dining experience. The alcoholic beverages would be sold for on-sale consumption only.

The property is located in Zone B-1. It is not located within 100 feet of any day care facility, park, church state mental health institution or residential district.

The gross floor area is 3,960 square feet. Four Suns is entitled to use any and all of the parking spaces at the Indian Village Shopping Center, which easily exceed the minimum requirement of 40 spaces.

To the best of applicant's knowledge, the lighting on the property was designed and erected in accordance with all applicable lighting regulations and requirements.

No drive-through window is used on the premises.

The Restaurant does not have any amplified outside sound or noise structure, including bells, buzzers, pagers, microphones or speakers within 150 feet of any residential district.

No access door to the business faces any residential district within 150 feet of the restaurant.

Primary vehicular ingress and egress to and from the restaurant is 13<sup>th</sup> Street, which is a major street, not a residential street.

Four Suns will meet all other regulatory requirements for liquor sale, including licensing by the State of Nebraska.

APR 23 2004

**JEFFREY J. FREDRICK  
P.O. BOX 80612  
LINCOLN, NE 68501**

4-14, 2004

City of Lincoln  
Attn: Dept. of Planning  
555 S. 10th St.  
Lincoln, NE 68508


**RE: Special Use Permit of Four Suns Restaurant**

**TO: Department of Planning, Planning Commission, City Clerk and City Council Members:**

I am the owner of the Indian Village Shopping Center located at 3225 S. 13th St., Lincoln, Nebraska. Pursuant to a lease agreement, I lease part of the shopping center to Four Suns Restaurant, Inc., which owns and operates Four Suns Restaurant.

I hereby grant permission for Four Suns Restaurant, Inc. and Pimpa Mills, its President, to seek a special use permit for the sale of alcohol in connection with the operation of the restaurant.

Sincerely,

  
Jeffrey J. Fredrick,

CRH/tlw

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## OWNERSHIP CERTIFICATE

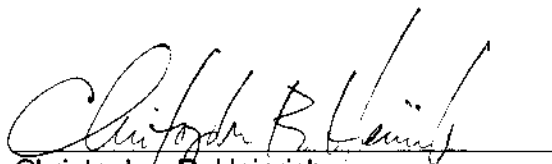
For purposes of the special use permit filed by Pimpa Mills, President of Four Suns Restaurant, Inc., a Nebraska corporation, the undersigned certifies that Jeffrey J. Fredrick is the owner of the following described real property:

Irregular Tract 73, in the Northeast Quarter of Section 2, Township 9 North, Range 6 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska; and

Lots 1, 2, 3, 4 and 5 of Blocks 2 and 3, inclusive, except for the South 5 feet of Lot 5, Block 3, and except that portion conveyed to the City of Lincoln in a deed dated the 26th day of February, 1979, all in W. H. Green's Subdivision of Lots 37 and 45 in the Northeast Quarter of Section 2, Township 9 North, Range 6 East of the 6th P.M., City of Lincoln, Lancaster County, Nebraska, together with vacated Cave Street.

I further certify that I am an attorney at law in good standing and authorized to practice law in the State of Nebraska.


Dated: 4/22/04

  
Christopher R. Heinrich

STATE OF NEBRASKA     )  
                                      ) ss.  
COUNTY OF LANCASTER )

Subscribed and sworn to before me this 22nd day of April, 2004, by Christopher R. Heinrich, attorney at law.



  
Notary Public

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